

V. THE EXISTING SUPPORT CALCULATION METHODOLOGY FOR RURAL ILECS SHOULD BE MAINTAINED, WITH THE EXCEPTION OF THE CAP ON HCLS, WHICH SHOULD BE LIFTED

A. Rural ILECs' support must be based on their network costs in order to encourage investment in infrastructure and achieve "reasonably comparable" services and rates

Several commenters, like OPASTCO, discuss the continued importance of rural ILECs being able to receive support based on their total network costs.⁴⁹ These commenters explain that carriers do not build lines, nor do customers purchase service on lines. Instead, carriers build networks and customers "...subscribe to service on a network so that they can communicate with all the other people connected to or through the network."⁵⁰ Regardless of the number of active lines a rural ILEC is serving at any particular point in time, as the carrier of last resort it must continue to maintain its whole network, which has been built to provide service throughout the entire study area. Fixed network costs do not disappear when a customer disconnects their service. Thus, support based on network costs remains critical if consumers in rural service areas are to continue to receive affordable, high-quality services.

A couple of commenters propose freezing per-line support in rural service areas as a way to control the growth of the Fund, thereby cutting the tie between rural ILECs' support and their total network costs.⁵¹ However, these commenters fail to explain how a cap on per-line support would be consistent with the Act's objective of encouraging investment in rural network facilities. Nor do they address the detrimental effect of a per-line freeze on the maintenance or restoration of facilities following a natural disaster or other emergency. They also fail to consider external cost increases, such as labor costs,

⁴⁹ NTCA, p. 6; Western Alliance, pp. 22-23; ITCI, pp. 17-18; CenturyTel, p. 10.

⁵⁰ Western Alliance, p. 22. *See also*, ITCI, pp. 17-18.

⁵¹ Western Wireless, p. 36; Verizon, p. 15.

workman's compensation, and health insurance, which often rise faster than the rate of inflation. Taken together, these impacts would result in failure to achieve the Act's objective of affordable and "reasonably comparable" services and rates in rural service areas.

The Commission previously declined to freeze per-line support, finding that it may have the unintended consequence of discouraging investment in rural infrastructure.⁵² This assessment continues to hold true today. The Joint Board should therefore reject calls to freeze per-line support in rural service areas. Instead, rural ILECs' "[h]igh-cost support should be calculated and distributed on the same basis as telecommunications facilities are constructed and that telecommunications services are provided – as networks."⁵³

B. Corporate operations expenses are necessary costs incurred by rural ILECs in the provision of universal service and should continue to be supported by the rural high-cost support mechanisms

OPASTCO is in agreement with those commenters that express the need for corporate operations expenses to continue to be supported by the rural high-cost support mechanisms.⁵⁴ Corporate operations expenses are necessary costs incurred in the provision of universal service. A few wireless carrier interests recommend that recovery of corporate operations expenses from the high-cost support mechanisms no longer be permitted, or that further limitations on the inclusion of these costs be imposed.⁵⁵ They

⁵² Rural Task Force Order, 16 FCC Rcd 11296, ¶129.

⁵³ Western Alliance, p. 22. *See also*, ITCI, p. 17.

⁵⁴ NTCA, pp. 11-12; TSTCI, pp. 11-12; ATA, pp. 22-23; ICORE, pp. 6-7.

⁵⁵ CTIA, p. 24; Nextel, p. 10; Dobson, p. 7; Western Wireless, p. 37.

claim that corporate operations expenses are not directly related to the cost of providing universal service.⁵⁶ They are wrong.

The loops and switches that transport telecommunications traffic are useless unless there is a company in place to manage and operate them. Companies incur operating costs. To the extent that such costs are prudent, they are every bit as important to providing service as the electronic hardware and software.

In addition, rural telephone companies operate in a complex legal and regulatory environment. Corporate operations expenses include items such as accounting and financial services, and legal services including guidance on regulatory matters. These are necessary costs of doing business as a regulated company and are hardly extraneous to the provision of service. As ATA correctly notes, “[f]or the regulatory process to impose these...burdens on small rural companies but then restrict their opportunity to recover the costs places small, rural carriers in a no-win situation.”⁵⁷

Moreover, there is nothing to indicate that rural ILECs, taken as a whole, incur corporate operations expenses that are unreasonable or imprudent. These companies operate just as efficiently as any other segment of the telecommunications industry, particularly in light of their inherently limited economies of scale. A study performed by economist Dale Lehman supports this conclusion, finding that rural ILECs’ corporate operations expenses are “neither particularly high nor particularly variable.”⁵⁸ Therefore, the high-cost support mechanisms should continue to support corporate operations expenses and further limitations on the inclusion of these costs should not be imposed.

⁵⁶ CTIA, p. 11; Nextel, p. 10.

⁵⁷ ATA, p. 23.

⁵⁸ NTCA and OPASTCO Ex Parte, False Premises, False Conclusions: A Response to an Attack on Universal Service by Dale Lehman, RM 10822, CC Docket No. 96-45, p. 2 (fil. Aug. 5, 2004).

C. There is strong opposition in the record to basing rural carriers' support on statewide average costs

Numerous commenters agree with OPASTCO that rural carriers' high-cost support should not be based on statewide average costs.⁵⁹ Commenters explain that a state's average costs are primarily determined by the large, non-rural ILECs, while rural carriers have little bearing on the statewide average. Consequently, using statewide average costs to determine eligibility for support would unfairly leave many high-cost, rural carriers ineligible to receive any federal funding, due to the unrelated costs of much larger carriers operating in the state.⁶⁰

In addition, rural ILECs' territories are primarily, if not entirely, *rural*. They do not serve large, low-cost urban centers that can counterbalance the cost of serving their high-cost customers. As a result, basing rural carriers' support on statewide average costs would place their ability to provide affordable, high-quality services to rural consumers in serious jeopardy. At greatest risk would be continued service to customers in the most remote and highest-cost areas, for whom there may be no other reliable telecommunications service options.

OPASTCO wholeheartedly agrees with the RCA that "...calculating rural support based on statewide average cost is contrary to the concept that support be sufficient. It is unreasonable and contrary to the goal that universal service support should be targeted to those areas where support is most needed."⁶¹ The Joint Board should therefore recommend that the rural high-cost mechanism continue to base support on individual carriers' study area average costs.

⁵⁹ For example, RCA, pp. 18-19; NTCA, pp. 10-11; Coalition, p. 12; TCA, pp. 6, 7; ROTC, pp. 8-9; FW&A, p. 22; GVNW, pp. 17-18; ALLTEL, p. 8; Home Telephone, pp. 6-7.

⁶⁰ See, Rural Task Force Recommendation, 16 FCC Rcd 6182.

⁶¹ RCA, p. 18.

D. The cap on HCLS should be removed

OPASTCO is in agreement with those commenters that recommend the removal of the cap on the HCLS mechanism.⁶² The cap on HCLS is an arbitrary impediment to the sufficiency of cost-based support intended to ensure affordable and “reasonably comparable” services and rates for rural consumers. The cap also creates unpredictability for rural ILECs, as an increase in support for any carrier lessens the support available for other carriers. Eliminating the cap on HCLS would provide rural ILECs with greater incentives to invest in their networks, thereby enabling the further deployment of advanced services in high-cost areas.

On the other hand, the Joint Board should reject the calls from a couple of wireless carrier interests to freeze or cap rural high-cost funding.⁶³ The way to control the growth of the Fund in a manner consistent with the statutory goals of universal service is to base support for CETCs in rural service areas on their own costs, not through artificial caps. Removal of the cap on HCLS will assist all ETCs in rural service areas – both ILECs and competitors – in satisfying the universal service goals of Section 254.

VI. CONCLUSION

The majority of commenters recognize that the existing rural high-cost support mechanism, based on study area average embedded costs, has been instrumental to rural ILECs’ achievement of the universal service objectives established by Congress. Specifically, it has encouraged rural ILECs to invest in infrastructure and has produced services and rates in rural service areas that are affordable and reasonably comparable to those offered in urban areas. The mechanism has also been accountable to the public by

⁶² ITTA, p. 29; JSI, p. 15; Frontier, p. 7; TDS Telecom, p. 10, fn. 23; SIC, p. 18; Home Telephone, p. 7.

⁶³ CTIA, p. 24; Western Wireless, p. 36.

ensuring that rural ILECs receive support that is no more than “sufficient” to achieve these objectives. As a result, significant modification to the high-cost mechanism for rural ILECs is neither necessary nor advisable.

Where numerous commenters do recognize the need for change is in the basis of support for CETCs in rural service areas. The identical support rule has enabled CETCs to receive windfalls of support in excess of their costs, thereby jeopardizing the sustainability and integrity of the rural High-Cost program. The identical support rule is also inconsistent with the principle of competitive neutrality. The Joint Board can remedy these defects in the existing system by recommending that CETCs in rural service areas receive support based on their own embedded costs. This would contain the growth of the rural High-Cost program in a manner consistent with the 1996 Act, enabling all ETCs in rural service areas to receive sufficient – but not excessive – support to provide universal service to rural consumers.

Respectfully submitted,

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I, Jeffrey W. Smith, hereby certify that a copy of the comments of the Rural Telecommunications Associations was sent by first class United States mail, postage prepaid, on this, the 14th day of December, 2004, to those listed on the attached list.

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